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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 In re: JDS UNIPHASE CORPORATION  
SECURITIES LITIGATION

No. C-02-1486 CW (EDL)

11 **ORDER FOLLOWING AUGUST 3, 2006  
DISCOVERY CONFERENCE**

12 This document relates to ALL ACTIONS

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14 On August 3, 2006, the Court held a discovery conference in this case. For the reasons stated  
15 at the hearing, the Court issues the following Order:

- 16 1. Pursuant to the parties' agreement, Defendant JDSU shall provide supplemental responses to  
17 Lead Plaintiff's interrogatories 3, 5 and 17 no later than August 15, 2006, and shall provide  
18 responses to the remaining interrogatories no later than August 31, 2006. Lead Plaintiff has  
19 withdrawn interrogatories 19-23 and 25, but not the document request in number 23. Lead  
20 Plaintiff has also withdrawn requests for information regarding Defendant JDSU's fiscal year  
21 2002 with regard to all interrogatories.
- 22 2. The Court agrees that the parties may reasonably exceed 25 interrogatories, but cautions the  
23 parties to use interrogatories sparingly.
- 24 3. If a party responds to interrogatories by listing documents, the responding party must identify  
25 those documents with "sufficient detail to permit the interrogating party to locate and to  
26 identify, as readily as can the party being served." Fed. R. Civ. P. 33(d). In this case, if the  
27 documents have been Bates-stamped, the responding party shall identify the documents by  
28 using those numbers unless there is good cause not to, which the party must set forth.
4. Lead Plaintiff's request that Defendant JDSU respond to interrogatories 1 and 3 with regard

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- 1 to former employees who are represented by Defendant JDSU's counsel is denied without  
2 prejudice.
- 3 5. Lead Plaintiff's request that Defendant JDSU respond to interrogatories 9 and 11 with regard  
4 to ETEK, OCLI and SDL is denied without prejudice.
- 5 6. Regarding interrogatory 12, Defendant JDSU has agreed to supplement its response by  
6 August 31. Further, the parties shall meet and confer promptly to agree on search terms and  
7 the procedure for running queries on Defendant JDSU's ERP system.
- 8 7. Lead Plaintiff shall serve responses to Defendant Muller's interrogatories no later than  
9 September 11, 2006.
- 10 8. As soon as Ernst & Young Canada makes documents responsive to Lead Plaintiff's subpoena  
11 available for review by Defendant JDSU, Defendant JDSU shall notify Lead Plaintiff, within  
12 one week of production if done in the United States or two weeks if in Canada, whether  
13 Defendant JDSU authorizes production of those documents to Lead Plaintiff, and the scope  
14 of that production. If Defendant JDSU believes that any unprivileged documents should be  
15 withheld from production as nonresponsive, it shall provide Lead Plaintiff with a sufficient  
16 explanation about which documents are withheld and why to enable Lead Plaintiff to  
17 determine whether it agrees that the documents are nonresponsive.
- 18 9. Lead Plaintiff seeks documents in the possession of counsel for Defendant JDSU and ETEK,  
19 OCLI and SDL. Counsel for Defendant JDSU informed the Court that Morrison & Foerster  
20 is already reviewing documents in its possession in response to Lead Plaintiff's subpoena  
21 and intends to produce responsive non-privileged documents. Similarly, no later than August  
22 3, 2006, Defendant JDSU's counsel shall contact the law firms of Wilson Sonsini, Collette &  
23 Erickson, and Sullivan & Cromwell, and ask them promptly to provide documents  
24 responsive to Lead Plaintiff's subpoenas to Defendant JDSU's counsel for review and  
25 production as soon as possible.
- 26 10. Any party receiving documents pursuant to a subpoena, including a subpoena that is  
27 withdrawn or adjourned, within ten days of receiving the documents, shall provide all other  
28 parties an opportunity to inspect and copy the documents.

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- 1 11. No later than August 4, 2006, Lead Plaintiff shall provide to Defendant JDSU a list that
- 2 matches the names of its Confidential Witnesses to the numbered Confidential Witnesses in
- 3 the complaint.
- 4 12. No later than the next Friday after one week of depositions in this case, Defendant JDSU
- 5 shall identify for Lead Plaintiff any additional depositions that it intends to take. This
- 6 deadline shall also apply to any party which changes its previously produced list of proposed
- 7 deponents based on depositions as they are taken.
- 8 13. The Court clarifies that Lead Plaintiff may take up to five Rule 30(b)(6) depositions of
- 9 Defendant JDSU, and those depositions count against its total allocation of fifty-five non-
- 10 expert depositions per side. Each Rule 30(b)(6) deposition notice constitutes one deposition.
- 11 Lead Plaintiff may also take Rule 30(b)(6) depositions of third parties, which count against
- 12 its total allocation of non-expert depositions.
- 13 14. No later than August 10, 2006, Lead Plaintiff shall provide to Defendant JDSU the
- 14 documents and information that it used as the basis for the spreadsheet regarding Deloitte's
- 15 alleged potential conflict in this case. Defendant JDSU and Deloitte shall continue to search
- 16 for documents regarding this alleged potential conflict.
- 17 15. Once the conflict issue is resolved, Defendant JDSU may take the Rule 30(b)(6) deposition
- 18 of Lead Plaintiff's witness Catherine LaMarr for up to an additional seven hours regarding
- 19 electronic data retention.
- 20 16. The Court declines to adopt deposition protocols for advance production of deposition
- 21 exhibit lists or topic lists. However, the Court encourages the parties where it is feasible to
- 22 exchange exhibits in advance of depositions and to notify opposing counsel in general terms
- 23 of the deposition topics in an effort to make the deposition time more productive.
- 24 17. No later than August 11, 2006, counsel for the Zellman Plaintiffs shall provide Defendant
- 25 JDSU with proposed deposition dates for their witnesses. Those dates may be as far as two
- 26 months in the future.

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1 18. If the parties believe a further discovery conference would be helpful, they shall notify the  
2 Court by joint letter with proposed dates for the conference.

3 IT IS SO ORDERED.

4 Dated: August 4, 2006

*Elizabeth D. Laporte*  
5 ELIZABETH D. LAPORTE  
United States Magistrate Judge